

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

ATHINA SOLOMOS,

Plaintiff,

vs.

TOWN OF CICERO, et al.,

Defendants.

Docket No. 07 C 3354

Chicago, Illinois  
February 9, 2009  
9:13 a.m.

TRANSCRIPT OF PROCEEDINGS - Status  
BEFORE THE HONORABLE REBECCA R. PALLMEYER

APPEARANCES:

For the Plaintiff:

KURTZ LAW OFFICES LLC  
BY: MS. DANA L. KURTZ  
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Lockport, Illinois 60441

For the Defendants:

DEL GALDO LAW GROUP LLC  
BY: MR. GEORGE S. SPATARO  
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TOBIN, PETKUS & MUNOZ LLC  
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1 THE CLERK: 07 C 3354, Solomos versus Town of  
2 Cicero on a motion.

3 MR. TOBIN: Good morning, your Honor.

4 Craig Tobin on behalf of the individual defendants.

5 THE COURT: Good morning, Mr. Tobin.

6 MR. PETKUS: Tom Petkus for the same defendants.

7 THE COURT: Good morning.

8 MR. SPATARO: George Spataro for Town of Cicero,  
9 your Honor.

10 Good morning.

11 THE COURT: Good morning.

12 MS. KURTZ: Good morning, your Honor.

13 Dana Kurtz on behalf of the plaintiff.

14 THE COURT: Good morning.

15 I understand this motion seeks a protective order  
16 with respect to the testimony of a witness that had  
17 originally been identified by plaintiff but who plaintiff  
18 expects no longer to call.

19 MS. KURTZ: Right. We withdrew her from our  
20 Rule 26 disclosures, and she is not disclosed on any of the  
21 Rule 26 disclosures for any of the parties, Judge.

22 THE COURT: Does she have another -- does she  
23 herself have an action pending?

24 MS. KURTZ: She does, in immigration. I have  
25 attempted to reach her immigration attorney. I understand he

1 is on vacation, your Honor.

2 THE COURT: Does she have an action against the  
3 Town of Cicero?

4 MS. KURTZ: No.

5 THE COURT: All right.

6 Let me ask the defendants who wish, as I understand  
7 it, to depose her, what is your expectation about what  
8 testimony she will offer in connection with this case?

9 MR. SPATARO: Judge, she was -- on three levels I  
10 expect the evidence.

11 One is, she was and still is, I assume, a good  
12 friend of one of the defendants, José Del Angel.

13 THE COURT: She is a friend of one of the  
14 defendants.

15 MR. TOBIN: Yes. She worked with Mr. Del Angel.

16 She also works with the plaintiff, Ms. Solomos.

17 All of them have been in groups that interacted  
18 together. That is witness testimony.

19 We anticipate, at least based on our investigation,  
20 that we have additional information of her interactions with  
21 the plaintiff and her knowledge about the case.

22 She was also, so to speak, the gatekeeper for  
23 President Dominick. She worked on a daily basis with the  
24 town president.

25 Now, Ms. Kurtz has advised me that some of the

1 evidence or testimony I may hear from her may not necessarily  
2 be beneficial to my client. However, Judge, I can't stick my  
3 head in the sand. I want to know what she knows and if she  
4 observed things or if there is other witnesses.

5 But what I do know is that in the years that she  
6 worked for Mr. Dominick, right directly in front of his  
7 office, she has never filed a complaint. She has never made  
8 a complaint or held herself out that something inappropriate  
9 was happening. So I would like to go down that path with  
10 her.

11 But probably the most important issue is, we have  
12 had witnesses discuss with her that she has knowledge,  
13 intimate knowledge, about the accusations that the plaintiff  
14 is making against José Del Angel; that she has been in all of  
15 their companies. She has interacted with Mr. Del Angel. She  
16 knows about his conduct, his character, the plaintiff's view  
17 of his propensity to make jokes.

18 So she really does hold a lot of information in  
19 that regard.

20 And also to the hostility of the potential  
21 environment that she is working in, which is how she was  
22 disclosed.

23 Now, whether --

24 THE COURT: Is there a reason that the defendants  
25 didn't disclose her on the 26(a)(1) statements, given her

1 significance?

2 MR. TOBIN: She was disclosed, and it was --

3 THE COURT: By the defendants?

4 MR. TOBIN: By the plaintiff. So it was, you know,  
5 okay, we see her. We think she has -- more importantly,  
6 Judge, as the case unfolded, her name surfaced in other  
7 depositions, like what happens in a case. Other witnesses  
8 said that I believe she was present. I think my client has  
9 testified to that, to certain events that -- when he  
10 interacted with Ms. Solomos or Ms. Solomos made certain  
11 statements. So that information arose.

12 And it was always taken, then, that we would take  
13 her deposition, which is why in November we issued a  
14 subpoena. Ms. Kurtz agreed to accept it on her behalf. And  
15 her deposition has been set on four separate occasions since  
16 then. It has been removed for various reasons, and that's  
17 not the thrust of our position.

18 But she has relevant information.

19 And the reality is, Judge, once you are told a  
20 witness has information, whether someone is going to call her  
21 or not, it's not like you can undo that. I mean, she has  
22 knowledge, and we would like to know her knowledge. And we  
23 believe she has additional knowledge that our own  
24 investigation has revealed.

25 THE COURT: One of the concerns -- a chief concern

1 raised by the plaintiff in this motion is that this is an  
2 effort really to do nothing more than impeach her with  
3 respect to a collateral matter, and that is her immigration  
4 status.

5 The responses I am getting from the defendants  
6 indicate that, no, that's not a focus of their concern at  
7 all.

8 So can we agree that any questions about her  
9 immigration status would be limited -- by that I mean in  
10 time -- so we are not spending an hour or two hours talking  
11 to her about her immigration status?

12 MR. TOBIN: Judge, I don't think there is going to  
13 be a single question about her immigration status. None of  
14 that was discussed.

15 What happened is, documents were tendered. And  
16 there is more than just those documents that are subject.  
17 There are documents that I assume it's the town's position  
18 she wrote herself and that they may ask questions about the  
19 authenticity of these documents.

20 The documents that surfaced have nothing to do with  
21 her immigration status. There are just multiple social  
22 security numbers on them.

23 So as I said to Ms. Kurtz, I assume the town, when  
24 they surfaced them, thought this may affect her credibility.  
25 But we all know that immigration status is not relevant at

1 trial. We have done plaintiff's work. We don't want to see  
2 it introduced at trial.

3 Judge, I don't think there will be a single  
4 question on it unless someone asks, are you a United States  
5 citizen? I don't think there will be any inquiry down that  
6 path.

7 MS. KURTZ: Your Honor, if I may?

8 The individual defendants in both responses, the  
9 defendants cited this issue of her, whether or not there were  
10 multiple social security numbers on the documents that  
11 they -- whether she authored those or not, and actually state  
12 that the use of multiple social security numbers may  
13 constitute a crime of moral turpitude as well as a federal  
14 offense under 18 USC 1028.

15 Those issues in all of the cases that we have cited  
16 with respect to a third-party witness are beyond the scope of  
17 relevance with respect to this case.

18 I find it bizarre that defendants would want to  
19 question her thinking that she is going to be a friendly  
20 witness to them but yet try to use that information to  
21 impeach her. That does implicate her immigration case, which  
22 is pending and she has separate counsel for.

23 THE COURT: Well, number one, she obviously can  
24 selectively take the Fifth, if she wants to do that.

25 Number two, Mr. Tobin has just told me that he

1 doesn't think her immigration status is a significant issue  
2 at all.

3 Number three, when I asked a moment ago, can we  
4 agree that the time that we devote to any immigration matters  
5 is limited? I got nods from both Mr. Spataro and Mr. Petkus  
6 as well.

7 I think so long as the gentlemen here will commit  
8 to me that we are talking five or ten minutes at the maximum  
9 on her immigration status, if at all, then they are entitled  
10 to get whatever information she has.

11 I take this as a good faith effort to obtain  
12 discovery information about the case. And by that I mean  
13 that should Ms. Montes have information that actually  
14 promotes or supports the plaintiff's case, that the  
15 defendants will take that seriously in connection with any  
16 settlement efforts.

17 The motion for a protective order is denied.

18 MR. TOBIN: Judge, can we have an order compelling  
19 her to appear within two weeks?

20 MS. KURTZ: Your Honor, as defendants know, I am on  
21 trial. Her immigration attorney needs to be present because  
22 of her pending immigration case.

23 Again, my understanding, he is on vacation. I have  
24 reached out to him and left him messages on his cell phone.

25 The defendants know I am on trial. I'm actually



1 leaving tomorrow. I can produce her the first week of March.

2 We have Larry Dominick's deposition scheduled for  
3 the 3rd of March and the 13th of March currently.

4 So there is no prejudice to defendants in waiting  
5 to the first week of March.

6 MR. TOBIN: Actually, Judge, there is. I don't  
7 want to get onto scheduling issues, but I had three depositions  
8 cancel with Ms. Kurtz last week. One canceled today.

9 My problem is, I don't have time in March. I have  
10 agreed to teach at NIDA the first week. I have already  
11 backed off two days because of President Dominick's deposition and  
12 others.

13 What I'd just ask this Court is, I think we could  
14 find time in February. I would like to get it ordered done.  
15 It would be one less thing. We have already asked for two  
16 extensions, Judge.

17 Ms. Kurtz also has an associate. We will try to  
18 accommodate the other lawyer. But at some point -- Ms. Kurtz  
19 and her firm are her lawyer. We just need to get the depositions  
20 going. If we wait until March, Judge, we will never be able  
21 to get it done.

22 MS. KURTZ: Your Honor, that's simply not true.

23 We have dates that we can schedule in March.

24 I need to be there because I represented her on a  
25 separate matter. There are attorney-client privilege issues.

1 Obviously, her immigration attorney needs to be present. So  
2 we are going to have to work with dates with respect to him.

3 We have worked out dates on other depositions.

4 There is no motion to compel her dates in the next two weeks.  
5 And I am on trial out of town, and the defendants know this.

6 MR. TOBIN: Just for clarity, Judge, you know our  
7 response is also a motion to compel because she has been set  
8 and withdrawn on four separate occasions.

9 Today's issue, as I advised Ms. Kurtz, should have  
10 been resolved in January when she first raised it, and then  
11 waited until the day of the deposition, canceled the  
12 deposition, and then said, I am filing for a protective  
13 order.

14 THE COURT: My problem with waiting until the first  
15 week in March is the one you have heard me talk about. She  
16 will say something, she will name somebody, she will mention  
17 some piece of paper, and you will all be coming back here  
18 telling me you now need more time for discovery.

19 Back-scheduling the depositions in a discovery  
20 calendar is never wise for exactly this reason.

21 So if we wait until the beginning of March, I just  
22 know that the March 20th date that I set recently, only  
23 reluctantly, will become no longer a real date and somebody  
24 will be angry. Maybe everybody will be angry.

25 MS. KURTZ: Your Honor, we had the same issue with

1 Larry Dominick's deposition. That's the reason that the date  
2 got kicked, is because he is dealing with the ballot issues  
3 and is not available until after the election.

4 He is a named defendant in the case.

5 She is a third-party witness.

6 There are issues of privilege. I need to be there.  
7 They know I am on trial out of town. I am on a federal trial  
8 call in the Northern District of Oklahoma.

9 THE COURT: I am going to direct that she appear  
10 for her deposition no later than March 6th.

11 MS. KURTZ: Thank you, Judge.

12 MR. TOBIN: Thank you, Judge.

13 MR. SPATARO: Thank you.

14 THE COURT: Thank you.

15 \* \* \* \* \*

16 I certify that the foregoing is a correct transcript from the  
17 record of proceedings in the above-entitled matter.

18 /s/ Frances Ward February 27, 2009.  
19 Official Court Reporter

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